



UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary of Commerce
for Oceans and Atmosphere
Washington, D.C. 20230

OCT 27 2011

The Honorable John Kerry
United States Senate
Washington, DC 20510

Dear Senator Kerry:

Thank you for your letter that followed the Senate Commerce Committee's field hearing "*Massachusetts Fishery Management Plans*," that you chaired in Boston, Massachusetts, on October 3, 2011. The National Oceanic and Atmospheric Administration (NOAA) joins you in seeking a healthy and diverse fleet throughout New England, and we are working to improve the sector management system and taking many other actions to help reach this broader goal. The fishing industry is the heart and soul of many coastal communities and a healthy and sustainable resource can help re-invigorate these communities. We understand that the Massachusetts fleet has struggled and many continue to struggle. We are confident that resolution and success is possible and want to continue to work with you, the fishermen, and the New England Fishery Management Council (Council) to solve these issues.

I look forward to visiting New England again for a follow-up meeting with you, fishermen, other representatives of the fishing industry, and Council members. I will work with your office on the details and any additional outreach needed for a successful discussion. Mayor Kirk also requested that I come to Gloucester and meet again with the fishing community, and I hope to make that part of my trip to New England.

Earlier this week, NOAA released the 2010 Final Report on the Performance of the Groundfish Fishery. This report examines the economic health of the Northeast groundfish fishery as a whole and concludes that when all fishing across the region is analyzed, fishermen as a whole are generally doing marginally better financially, even though they are spending less time fishing and catching fewer fish than previous years. However, I am concerned that the report shows continuing negative trends within certain segments of the fishery. Based on conversations with the Commonwealth of Massachusetts, NOAA anticipates that the two reports the Commonwealth has led will be released next week and will contain more specific information on particular groups of fishermen that may have experienced direct economic loss. NOAA has been working closely with the Commonwealth on these reports. This more detailed approach is necessary to reach a disaster determination given that the fishery as a whole realized increased revenues in 2010.

I anticipate receiving soon a revised fishery disaster request from the Commonwealth that is based on all three economic reports. Once we receive the request, I have instructed the NOAA team to work with the Commonwealth to assess, as quickly as possible, the revised request, and if it is warranted, to identify the affected group of the fishery, quantify the extent of their losses, and develop a plan for the uses of any relief funds that might be appropriated.



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THE ADMINISTRATOR



The third issue you raised pertained to increasing the amount of unused quota rollover from 10 percent to 25 percent. NOAA is working aggressively to advance action on rollover of unused quota above 10 percent, and specifically asking that this be added to the Council's meeting agenda for action in November. The Council's Scientific and Statistical Committee needs to review this action to assess the biological impacts.

NOAA has already taken several steps to advance this issue:

- In June 2011, in response to a letter from you and other Members of Congress, we asked the Council through a letter from Pat Kurkul to explore the feasibility of carrying over more than the 10 percent currently authorized.
- At its September 2011 meeting, the Council talked about its priorities for 2012, which included a discussion of rollover. At NOAA's urging, the Council moved this issue to its preliminary list of "high priorities."

The fourth issue you raised was improving stock assessments in New England, and ensuring NOAA has the resources for this effort. Thanks to additional funds provided by Congress, over the last 4 years, the National Marine Fisheries Service (NMFS) has almost doubled the number of stocks assessed annually in the Northeast region. The agency has conducted an average of 21 stock assessments per year in the Northeast region since 2008. At present, this means individual stocks are being assessed every 3 to 4 years. In the preceding 4-year period (2004-2007), the agency conducted an average of 11 stock assessments per year.

NOAA is committed to continuing to provide more timely scientific information. For the past 3 years, NOAA has worked with the Council on a revised approach for producing stock assessments, to provide managers the information to adjust annual or biennial catch limits in response to changing stock conditions, so industry can take advantage of healthy stocks sooner and not overfish newly depleted stocks. We will begin transitioning to this improved approach in November 2011.

Under the revised approach, NMFS will conduct stock assessments at a frequency of every 1 to 3 years, for an average of about 30 stock assessments per year. This is considered the optimal frequency, based on biology of the stocks, at which to assess the status of these stocks. Given the agency's current fiscal constraints, shifting to this new approach within existing resources would require a reduction in other services including staff support of some Council activities and research.

The fifth item raised in your letter was for NOAA to delay the transfer of at-sea monitoring costs to New England fishermen. As I shared in my October 19, 2011, statement, we will continue to fund the cost of at-sea monitoring for New England groundfish through the end of the 2012 fishing year. The economic information provided in our comprehensive review of the 2010 fishing year makes it clear that many fishermen are currently un-able to assume at-sea monitoring costs. NOAA hopes to continue to work with you and other Members of Congress to secure the required level of funding in the 2012 budget to ensure we can meet these commitments.

The sixth issue raised was an independent follow-up to the management review reforms, including more stakeholder involvement. Following your request, we will work with an independent consulting group to initiate a participatory review and an independent assessment of our reforms. That process will include significant opportunity for further consultation with and participation of stakeholders in the process. After the management review release in April of this year, NOAA has been working to improve science collaboration with State and private research institutions, enhance data management systems to assist the fishing industry with more timely and accurate information, define roles and responsibilities more clearly among management and science offices and the Council, and strengthen outreach and communications. These actions demonstrate our continued commitment to transparency, openness, and accountability.

The seventh issue of concern relates to the issue of incentives to NOAA law enforcement officers to pursue excessive fines. We have undertaken a review of the criteria used to make pay and promotional decisions within the NOAA Office of Law Enforcement and confirmed that measures related to fines levied or other penalties applied have not been performance evaluation criteria. A variety of performance criteria have historically been used to evaluate and promote employees including skill, knowledge, and proficiency measures in a number of policy, procedure, investigative, and compliance areas. Following this review, I directed our NOAA Office of Law Enforcement personnel to reaffirm this approach in a new policy directive.

The eighth issue raised was your concern for both Mr. Keding and Mr. Scola. You and I discussed Mr. Keding and Mr. Scola's particular cases on a number of occasions and I appreciate the difficult situations of these two fishermen. My top leadership team carefully reviewed the additional information provided in your recent letters and they would be pleased to discuss the situation in depth with you, your staff, and/or Mr. Keding and Mr. Scola.

The ninth issue you raised related to areas currently closed to fishing around Massachusetts. Sector management in New England provides an opportunity to focus management on the most critical issue, catch levels, and move away from measures that control fishing effort such as closed areas. This approach frees fishermen from many regulations and allows innovation. I agree that the New England Council's Omnibus Habitat Amendment is an opportunity to explore which closed areas are necessary and which can be open. NOAA is actively involved in that analytical process and is also actively working with the Council leadership to explore approaches that could fast track some of these measures. The agency is exploring the feasibility of opening additional nearshore areas in advance of the comprehensive Essential Fish Habitat evaluation and anticipates making a formal proposal to the Council in November 2011.

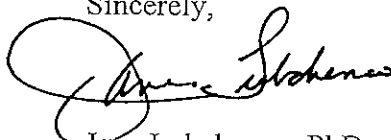
Earlier this year we recognized that access to important fishing areas was a concern, and took action to open nearshore areas as part of Framework 45 which benefited many small boat fishermen. Similarly, due to sequencing issues with the Council's Essential Fish Habitat Omnibus Amendment process, NOAA delayed the formal consideration of a Stellwagen Bank National Marine Sanctuary Ecological Research Area until the agency has a better understanding of the changing economic and social dynamics of the fishery management system.

The tenth issue concerned assessing the flexibility within the Magnuson-Stevens Act with regard to rebuilding timeframes. We have used and will continue to explore and use flexibility in the statute to improve the economic performance of the fishery while adhering to the principles of sustainability embodied in the Act. I will continue the discussions with you and explore additional opportunities. The Act requires that overfished stocks be rebuilt as soon as possible but in no case longer than 10 years unless the biology of the stock, other environmental conditions, or international obligations dictate otherwise. In the New England Groundfish complex, 6 of the 15 stocks currently undergoing rebuilding have rebuilding programs longer than 10 years due to these existing exemptions. At the request of Congress, I have committed funding for a National Academy of Sciences review that will provide much needed scientific evaluation of the rebuilding timeframe, and I am pleased that NOAA was able to work with the New England delegation on the passage and implementation of the International Fishery Agreement Clarification Act, which allowed us to extend the rebuilding time for Georges Bank yellowtail flounder.

Finally, you requested that NOAA provide \$1 million within our FY 2012 funds to fully study the effectiveness and applicability of Ocean Acoustic Waveglide Remote Sensing. NOAA recognizes this technology has the potential to eventually improve marine resource assessments. The best approach would be to have the MIT Principal Investigators work through their collaborators at the Woods Hole Oceanographic Institute to propose a pilot project as part of the Cooperative Institute for North Atlantic Region's (CINAR) FY 2012 program. Funding such a project will be contingent upon FY12 funding, but if sufficient funding is available, NOAA would consider such a project as part of its competitive grants program. Also, CINAR staff is working with Northeast Fisheries Science Center staff to prepare a white paper on innovative and transformative research the two institutions can conduct.

Thank you for your continued attention to NOAA's issues and efforts to work with us on tangible options to move forward in ensuring the Massachusetts fishing industry has a bright future. We look forward to working with you on finding constructive solutions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jane Lubchenco", written over a horizontal line.

Jane Lubchenco, PhD.
Under Secretary of Commerce
for Oceans and Atmosphere